

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

TRANSFER OF RESOURCES

1902(f) and 1917
of the Act

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in section 1613(c) of the Social Security Act (Act).

1. Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

a. ☒ The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

b. ☒ The period of ineligibility is less than 24 months, as specified below:

c. ☒ The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

2. Transfer of the home of an individual who is an inpatient in a medical institution.

X A period of ineligibility applies to inpatients in an SNF, ICF or other medical institution as permitted under section 1917(c)(2)(B)(i).

- a. Subject to the exceptions on page 5 of this supplement, an individual is ineligible for 24 months after the date on which he disposed of the home. However, if the uncompensated value of the home is less than the average amount payable under this plan for 24 months of care in an SNF, the period of ineligibility is a shorter time, bearing a reasonable relationship (based on the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

The uncompensated value divided by the average skilled nursing home per diem rate (as adjusted on 4-1 and 10-1) equals the number of days of ineligibility from the date of transfer.

TN No. 85-1
Supersedes
TN No. 82-2

Approval Date 9/20/85

Effective Date 4/1/85

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: _____

- b. 17 Subject to the exceptions on page 2 of this supplement, if the uncompensated value of the home is more than the average amount payable under this plan as medical assistance for 24 months of care in an SNF, the period of ineligibility is more than 24 months after the date on which he disposed of the home. The period of ineligibility bears a reasonable relationship (based upon the average amount payable under this plan as medical assistance for care in an SNF) to the uncompensated value of the home as follows:

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

No individual is ineligible by reason of item
A.2 if--

- i. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual can reasonably be expected to be discharged from the medical institution and to return to that home;
- ii. Title to the home was transferred to the individual's spouse or child who is under age 21, or (for States eligible to participate in the State program under title XVI of the Social Security Act) is blind or permanently and totally disabled or (for States not eligible to participate in the State program under title XVI of the Social Security Act) is blind or disabled as defined in section 1614 of the Act;
- iii. A satisfactory showing is made to the agency (in accordance with any regulations of the Secretary of Health and Human Services) that the individual intended to dispose of the home either at fair market value or for other valuable consideration; or
- iv. The agency determines that denial of eligibility would work an undue hardship.

TN No. 85-1
Supersedes
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

3. 1902(f) States

☒ Under the provisions of section 1902(f) of the Social Security Act, the following transfer of resource criteria more restrictive than those established under section 1917(c) of the Act, apply:

B. Other than those procedures specified elsewhere in the supplement, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less:

2. If the uncompensated value of the transfer is more than \$12,000:

TN No. 85-1
Supersedes
TN No. 82-2

Approval Date 9/20/85

Effective Date 4/1/85

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

4. Other procedures:

The following policy applies to eligibility determinations on and after July 1, 1988.

1. The State plan provides for a period of ineligibility for nursing facility services, equivalent services in medical institution, and home and community-based services in the case of an institutionalized individual (as defined in paragraph (3) of §1917(c) who, disposed of resources for less than fair market value, at any time during or after the 30-month period immediately before the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the State plan on that date) or, if the individual is not entitled on the date of institutionalization, the date the individual applies for assistance while an institutionalized individual.
 - a. 30 months, or
 - b. the total uncompensated value of the resources so transferred, divided by the average cost, to a private patient at the time of application, of nursing facility services in the State.
2. An individual shall not be ineligible for medical assistance by reason of paragraph 1 to the extent that -
 - a. the resources transferred were a home and title to the home was transferred to -
 - (1) the spouse of such individual;
 - (2) a child of such individual who is under age 21, or is blind or disabled as defined in §1614 of the Social Security Act;
 - (3) a sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date the individual becomes an institutionalized individual; or
 - (4) a son or daughter of such individual (other than a child described in clause 2) who was residing in such individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual; and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;
 - b. The resources were transferred to (or to another for sole benefit of) the community spouse as defined in §1924(h)(2) of the Social Security Act or to the individual's child who is under age 21, or is blind or disabled as defined in §1614 of the Social Security Act.
 - c. A satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary of United States Department of Health and Human Services) that
 - (1) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration.
 - (2) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; the individual must provide objective evidence that the transfer was exclusive for another purpose and the reason for the transfer did not include possible or future Medicaid eligibility; or
 - (3) Consistent with 1917(c)(2)(D), an institutionalized spouse who (or whose spouse) transferred resources for less than fair market value shall not be found ineligible for nursing facility service, for a level of care in a medical institution equivalent to that of nursing facility services, or for home and community-based services where the state determines that denial of eligibility would work an undue hardship under the provision of §1917(c)(2)(D) of the Social Security Act.

Revision: HCFA-AT-85-3 (BERC)
FEBRUARY 1985

SUPPLEMENT 9 TO ATTACHMENT 2.6-A
Page 8

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

TRANSFER OF RESOURCES - UNDUE HARDSHIP

1917(c)(2)(D)
of the Act

"An institutionalized spouse who (or whose spouse) transferred resources for less than fair market value shall not be found ineligible for nursing facility services, for a level of care in a medical institution equivalent to that of nursing facility services, or for home and community-based services where the state determines that denial of eligibility would work an undue hardship under the provision of Section 1917(c)(2)(D) of the Social Security Act."

TY No. 90-08
Supersedes
TY No. 85-01

Approval Date

DEC 05 1991

Effective Date

2/1/90

HCFA ID: 4092E/0001